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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/066,921 | 02/04/2002 | John H. Schneider | 769-295 | 4346 |

29540 7590 07/21/2003

PITNEY, HARDIN, KIPP & SZUCH LLP
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NEW YORK, NY 10017-4024

EXAMINER

SIPOS, JOHN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3721

DATE MAILED: 07/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,921

Applicant(s)

SCHNEIDER ET AL.

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's arguments have been considered but are not persuasive and therefore the rejection made in the last Office action is repeated.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

Claims 1-30 are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to patent to Malin (6,185,907-cited by applicant) in view of Ausnit (4,876,842) or Belmont (6,427,421). The patent to Malin shows a method and apparatus for forming packages which comprises a means for feeding a film (14/16) in a horizontal plane, means for placing a product on the film (column 3, line 1 et seq.), means for feeding a continuous zipper to the longitudinal edge of the film (38/40), means for folding the film along its longitudinal center (36), means for sealing the zipper to the film (84/86), means for sealing the longitudinal edges of the folded film (68/70) and means for sealing and cutting the packages crosswise (94/96). The Malin operation differs from the claimed one in the position of the zipper on the film.

The patent to Ausnit shows a package forming apparatus which comprises a means for providing a continuous film 14 in a horizontal plane, means for placing a product on the film (15), means for longitudinally folding the film (38), means for feeding a continuous zipper adjacent the longitudinal fold of the film (24), means for sealing the zipper to the film (42), means for sealing the longitudinal edges of the folded film (40) and means for sealing and cutting the packages crosswise (12).

The patent to Belmont shows a package forming apparatus which comprises a means for providing a continuous film 14 in a vertical plane, means for longitudinally folding the film along its center (column 4, line 26), means for longitudinal feeding a continuous zipper to the

film (14). The patent teaches alternative embodiments wherein the continuous zipper is fed either to the longitudinal edge of the film (Figures 3a and 3c) or adjacent the central fold of the film (Figure 3c).

In both the Ausnit and Belmont operations the feeding of the zipper inside the longitudinal fold provides protection from contamination to the zipper in the finished package. It would have been obvious to one of ordinary skill in the art to position the zipper of Malin adjacent the fold of the film as taught by either Ausnit or Belmont to provide protection to the zipper.

The use of sliders and the related specifics of the bag, as recited in claims 3-10, 13-20 and 23-30 are well known in the zipper/slider/bag forming art and would have been obvious to use in the process of the Malin and Ausnit /Belmont combination for their inherent benefits.

RESPONSE TO APPLICANT'S ARGUMENTS

Applicant argues that Malin does not show the sealing of the longitudinal edges of the film. However, Malin specifically sets forth the sealing of these edges in column 3, lines 37-48 by sealers 64 and 66 shown in Figures 5 and 6.

Applicant further argues the upstream position of the product placing operation. The patent to Malin clearly states in column 3, line 1 et seq. that the products are placed on the film near the fold forming means so that the product "eventually be covered by the portion 28 being folded over", i.e. the folding is done after the placement step. Similarly, the longitudinal edge sealing of the film 64/66 and zipper sealing 80/82 of Malin takes place downstream of the product placement operation as shown in Figure 1.

Applicant's arguments with respect to the secondary references to Ausnit and Belmont are not persuasive since these references were used to show the position of the zipper near the fold in the film so that the zipper would be protectively covered by the fold. These references were not applied against the claims to show other claimed limitations, e.g. location of the longitudinal seal and the sequence of the various steps/mechanism, since these steps and mechanisms are fully shown by the basic reference to Malin.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

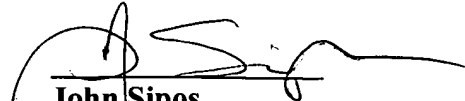
The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 305-3579**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter Vo, can be reached at (703) 308-1789.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



John Sipos
Primary Examiner
Art Unit 3721

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